

Date of Decision : 26th July, 1996.

Special Civil Application No.2840 of 1985.

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For Approval and Signature

The Honourable Mr.Justice C.K. Thakkar

1. Whether Reporters of Local Papers may be allowed to see the judgment? - Yes.
2. To be referred to the Reporter or not? - No.
3. Whether their Lordships wish to see the fair copy of judgment? - No.
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 or any order made thereunder? - No.
5. Whether it is to be circulated to the Civil Judge? - no.

Mr.J.C. Sheth, Advocate, for the Petitioner.

Mr.Y.F. Mehta, AGP, for respondents Nos. 1 and 2.

Respondent No.3 served.

Coram : C.K. THAKKAR, J.

(26th July, 1996)

Oral Judgment :-

This petition is filed by the petitioner against an order passed by the Gujarat Secondary Education Board, Gandhinagar in 1985 and confirmed by the State Government in March 4, 1985.

It is the case of the petitioner that it is a Kelavani Mandal, a Trust registered under the Bombay Public Trusts Act, 1950. It runs a school at Village Vandeli in Godhra Taluka. For the purpose of imparting education to the students in the Village, it intended to establish a High School at Village Vandeli so that the students of the Village, who desire to take secondary education after completion of primary education, may not have to go out of village Vandeli. An application was, therefore, made to the Gujarat Secondary Education Board, with necessary details in accordance with the Rules and Regulations. A report was prepared, District Educational Officer had also placed on record necessary opinion and after completion of all requirements and necessary formalities, an order was to be passed. It was the case of the petitioner that though the application was in prescribed form and there was no other hurdle and / or obstacle in granting the application, the application came to be rejected illegally, though in similar circumstances and on similar facts, an application of another Institute, namely, Navyug High School, came to be granted.

In view of the fact that, according to the petitioner, the order passed by the Board was contrary to law, it preferred an appeal before the State Government, but the State Government also confirmed the order passed by the Gujarat Secondary Education Board, holding that the Board, in rejecting the application of the petitioner, had not committed any error of law.

The matter is of 1985. The application was made in 1984. In these circumstances, in my opinion, no relief now can be granted after more than a decade. Mr.Sheth, learned counsel for the petitioner, however, submitted that this would be a circumstance in favour of the petitioner rather than against it, the reason being that there will be increase in population, increase in students at Primary School level and hence, it would be much more desirable to grant permission to run a secondary school. Mr.Sheth may be right, but in these circumstances, appropriate course would be to grant liberty to the petitioner-Trust to make fresh application in accordance with law. If such an application will be made, the Board will consider the facts and circumstances

as on today and obviously, would pass an appropriate order in accordance with law. So far as this petition is concerned, in my opinion, no relief can be granted. Hence, the petition is dismissed. Rule is discharged. No order as to costs.

(apj)